REMARKS

The present filing is responsive to the Examiner's concerns noted in the Office Action.

Summary of the Response

Claims 1, 2, 11, 12 and 20 have been amended. Claims 1-20 remain pending in this application. Reexamination and reconsideration of the present application as amended are respectfully requested.

Finality of Office Action is Premature

Applicant respectfully submits that the finality of the present action is premature, and should be withdrawn. The Examiner indicated in the present action that Applicant's amendment necessitated the new ground(s) of rejection presented in the present action. In a telephone call with the Examiner shortly after receipt of the present action in an attempt to clarify the finality of the present action, the undersigned representative noted to the Examiner that the originally presented claims had not been substantively amended in the previous action, and the Examiner was in agreement. However, the Examiner stated that the new ground of rejection arose from Applicant presenting new claims in the preceding response. Applicant respectfully disagrees.

In the earlier action, Applicant noted in its arguments against Kubo that the front optical stack does not include a compensation plate such as a retardation film. In the present action, the Examiner asserted the same rejection based on Kubo in verbatim as the previous office action. The Examiner failed to address Applicant's arguments in response to the rejection based on Kubo. According to the MPEP, the Examiner has an obligation to address an applicant's

arguments in a response. By the Examiner failing to rebut Applicant's arguments, it would not be fair to Applicant to have to guess the issues based on Kubo which is beyond Applicant's points raised in its arguments. There is clearly no new issue raised by an absence of rebuttal by the Examiner.

Given the foregoing, and further the originally presented claims had not been substantively amended, the mere introduction of new claims in the earlier response would not give rise to a valid basis of final action based on a newly cited reference. In fact, even if the new claims give rise to a new ground of rejection based on the same and/or new prior art, and as long as the originally presented claims had not been substantively amended, should a new ground of rejection based on a new reference is applied to the non-substantively amended originally present claims, the following action cannot and should not be made final. In this case, a newly cited prior art reference Akiyama is being applied to the originally presented, non-substantively amended claim 1 (and certain original dependent claims). Akiyama could have been cited in the earlier action. Apparently, the Examiner failed to cite Akiyama earlier, but such deficiency should not prejudice Applicant with the finality of the present action.

In view of the foregoing, the finality of the present action should be withdrawn.

Claim Rejections Under 35 USC 102

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubo et al. (US Patent No. 6,124,919). Claims 1, 3, 8-11, 13 and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Akiyama et al. (US 6,577,360). These rejections are respectfully traversed.

a. Kubo

Previously presented claim 1 recites the front optical stack consists essentially of polarizer and an optical light scattering film. Given the nature of such close ended recitation, it excludes significant additional layers such as a compensation layer. Applicant notes that the first upper retardation film (10) is set to 380nm-500nm, which is significant compared to the retardations of the other layer, such as the retardation of 700nm-950nm of the liquid crystal layer 7 (see Kubo, at column 6, lines 33-37). As such, the recited optical stack consisting essentially of polarizer and an optical light scattering film should have been construed to exclude a compensation film or a retardation film.

The Examiner appears to concede that Kubo does not disclose a front optical stack without a compensation film, given the absence of rejections of previously presented claim 10, 11 and 20 which included this limitation. Accordingly, Kubo therefore does not anticipate independent claims 1, 11 and 20 and all their dependent claims, and all pending claims are therefore patentable over Kubo.

b. Akiyama

Independent claim 1 has been amended to include the limitations of dependent claim 2 (similarly for independent claims 11 and 20), to recite the retardation of said liquid crystal layer being in the range of 500-750 nm. The Examiner conceded in the present action that Akiyama does not disclose the retardation of said liquid crystal layer is in the range of 500-750nm. Accordingly, all the pending claims are not anticipated by Akiyama and are therefore patentable over Kubo. (The non-obviousness of the recited retardation range is addressed below.)

Claim Rejections Under 35 USC 103

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al. (US Patent No. 6,124,919). Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo et al. (US Patent No. 6,124,919) in view of Saiki et al. (US Patent No. 6,697,132). Claims 2, 4-7, 12, 14-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. in view of Kubo et al. These rejections are respectfully traversed.

It would not have been obvious to combine Akiyama and Kubo, with respect to the recited retardation range of 500-750 nm recited in amended claims 1, 11 and 20. The Examiner conceded to the absence of the recited retardation range in Akiyama. The Examiner instead relied on Kubo to render such range obvious. Applicant respectfully submits that Kubo does not make up for the deficiencies of Akiyama.

On the outset, Kubo discloses a retardation range of 700nm-950nm for the liquid crystal layer. Dependent claims 2 and 12 have been amended to recite a retardation range of 500 to less than 700 nm for the liquid crystal layer. As such, even if Kubo is combined with Akiyama, the resultant combination does not obtain the invention defined in claims 2 and 12.

Further, Akiyama does not use a retardation film in connection with other layers having retardation properties in the liquid crystal display device. Kubo instead specifically teaches the use of upper and lower retardation films in connection with the liquid crystal layer having retardation properties, a diffusing layer and polarizing layers in a liquid crystal device, to achieve a matched phase of transmitted and reflected light (see title and abstract in Kubo). The optical properties of the various layers in Kubo are specifically chosen, with the specified retardation ranges for the retardation layers and liquid crystal layer and other optical properties of the other layers, to work in an integrated fashion, in order to match the phase of transmitted and reflected

light. It would be unreasonable for the Examiner to simply cherry pick the retardation value of a particular layer (namely the liquid crystal layer) and randomly applied that to the Akiyama device. There is no indication anywhere in Kubo and/or Akiyama that it would be desirable to implement a liquid crystal layer having retardation range of 700-950 nm in Akiyama, much less 500-700 nm retardation in the liquid crystal layer, in combination with the other layers in Akiyama. Akiyama specifically excluded a retardation film in its device, but the choice of retardation value of its liquid crystal layer which works with the other optical layers in its device have not been disclosed. Simply substituting into Akiyama the retardation value of the liquid crystal layer in Kubo would be hindsight reconstruction, given the disclosure of the present invention.

As noted in the specification of the present invention at page 5, lines 9-14: "Furthermore, the liquid crystal layer 2 is chosen to have a retardation of about 500-750 nm. It is noted that this retardation interval is lower than for prior art FSTN and conventional STN LCD, which have a retardation within the interval of 760-860nm. Hence the inventive display may be referred to as a low retardation LCD. By using a low retardation liquid crystal layer together with the proposed front optical stack, the use of compensation films may be avoided." This shows that the display device is quite sensitive to the retardation value of the liquid crystal layer (e.g., 500-750 nm for the present invention, compared to the prior art of 760-860 nm). The recited retardation value range would not have been predictable or expected results to a person skilled in the art, because simply substituting the retardation value for the liquid crystal layer without consideration of the additional layers would not be reasonable. Therefore, it would not have been obvious to modify Akiyama with Kubo, because the results of the combination would not

have been predictable or expected, without additional disclosure found only in the present invention. The Examiner has not set forth a prima facie case of obviousness.

Entry of Amendments

As noted above, the finality of the present action is premature. Accordingly, the amendments to the claims presented herein should be entered as a matter of right. Further, Applicant notes that the amendments herein to independent claims 1 and 11 merely incorporated the limitations of their respective dependent claims 2 and 12. As such, the amended claims 1 and 11 are nothing more than previously presented claim 2 and 12. As such, the amendments do not raise new issues requiring a new search. Regarding amended claim 20, it includes similar amendment. Accordingly, the amendments herein should be entered, even if the finality of the present action is maintained.

Still further, once the finality of the present action has been withdrawn, given that the amendments to the independent claims involve nothing more than previously presented dependent claims, should the Examiner cite new or additional prior art involving a new ground of rejection, such new grounds would not have been necessitated by the amendments to the independent claims.

Applicant further respectfully request to consider and address all rebuttal arguments presented herein, so that Applicant can determine further prosecution of this case.

CONCLUSION

In view of all the foregoing, Applicant submits that the claims pending in this application are patentable over the references of record and are in condition for allowance. Such action at an early date is earnestly solicited. **The Examiner is invited to call the undersigned representative to discuss any outstanding issues that may not have been adequately addressed in this response.**

The Assistant Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this transmittal and associated documents, or to credit any overpayment to **Deposit Account No. 501288** referencing the attorney docket number of this application.

Respectfully submitted,

Dated: October 17, 2007

Wen Liu
Registration No. 32,822

LIU & LIU
444 S. Flower Street; Suite 1750
Los Angeles, California 90071
Telephone: (213) 830-5743
Facsimile: (213) 830-5741
Email: wliu@liulaw.com